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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,818	08/17/2001	Eddie J. Tsataros	130778-M200	5859

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DART INDUSTRIES INC
P O BOX 779001
ORLANDO, FL 328779001

EXAMINER

CECIL, TERRY K

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,818

Applicant(s)

TSATAROS ET AL.

Examiner

Mr. Terry K. Cecil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-1-2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) 6,11,13 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 20 February 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Note that claim 2 was both canceled and amended by the applicant in Paper No. 10, filed 10-20-2003, since a canceled claim cannot be amended, the amendment of claim 2 cannot be entered.

DETAILED ACTION

Election/Restrictions

1. Applicant's confirmation in Paper no. 12, filed 3-11-2003, that group I was elected and that this group consists only of claims 1, 3-5 and new claims 12 and 14 is acknowledged. As applicant has stated, non-elected claims 6, 11, 13, and 15 are withdrawn from consideration.

Specification

Applicant's amendments to the specification have obviated the specification objections of the prior office action.

Drawings

Applicant's proposed drawing changes have obviated the drawing objections of the prior office action. The proposed drawing changes are approved by the examiner.

Claim Rejections - 35 USC ' 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

Determining the scope and contents of the prior art.

Ascertaining the differences between the prior art and the claims at issue.

Resolving the level of ordinary skill in the pertinent art.

Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 3, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moretto (U.S. 5,900,138) in view of Huang et al. (U.S. 5,873,995), hereinafter "Huang". As shown in figure 1, Moretto discloses a fluid treatment device comprising:

- a container 2 including a pre-filt chamber 9 and filter 11 arranged such that filtered water is passed into the filtrate chamber therebelow via the connecting element 5 which includes filter housing 10; and
- a removable and replaceable cap 8.

As shown in figures 3-13, Moretto also discloses a *mechanical* counting/indexing mechanism having a gear counter mechanism that includes a gear 16 having scale graduations thereon that are visually observable through a window 30 in the cap (see figure 14). A ratchet mechanism is

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also included for indexing the gear when the cap has been removed and replaced (col. 3, lines 12-16) in order to indicate the state of filter and when it should be replaced.

Moretto does not disclose his counter mechanism to include a sequentially changing visual color coding system for indicating the present status of the filter. However, such is taught by Huang in col. 7, lines 26-36 thereof. Huang's indicator bar 100 includes a graduated color *spectrum* [as in claims 1 and 3]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have graduated color spectrum of Huang instead of the scale graduations 22 of Moretto, since Huang teaches the equivalence of color and numeric markings for indicating the number of fill cycles or useful life of the filter.

As for claim 14, upon modification of Moretto by Huang, the top surface of gear 16 would include arcuately positioned sequentially changing colors instead of his arcuately arranged numerals.

As for claim 12, Moretto teaches a handle 38 on a bottom surface of the cap for indexing when the cap is removed, as shown in figure 5.

4. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moretto in view of Huang and in further view of Rolfes (U.S. 6,306,290). Rolfes teaches a counter top water purifier that includes an electronic visual color coding system that comprises three color changes that change sequentially from green 30 to yellow 32 to red [as in claims 4-5].

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It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the color sequence of Rolfes as the color scheme of Moretto, as modified by Huang, since Rolfes teaches the benefit of logic and colors well known to the public that are the most reasonable type of warning as to the status of a water purification system.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection necessitated by amendment.

Conclusion

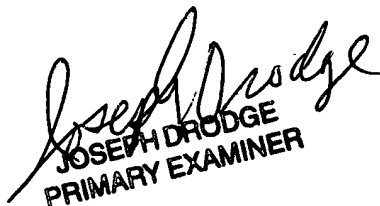
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (703)305-0079 for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:00a to 4:30p, on at least four days during the week M-F.
- The group receptionist can be reached at (703)308-0661 for inquiries of a general nature or those relating to the status of this or proceeding applications.
- Wanda Walker, the examiner's supervisor, can be reached at (703)308-0457 if attempts to reach the examiner are unsuccessful.
- Fax numbers for this art unit are as follows:
 - i. (703)872-9310 for *official* faxes (i.e. faxes to be entered as part of the file history) that are not after-final; and
 - ii. (703)872-9311 if after-final.

TKC
April 15, 2003


JOSEPH DRODGE
PRIMARY EXAMINER